

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-30111-MAP

JAMES V. CARIDDI

Plaintiff,

v.

CONSOLIDATED ALUMINUM  
CORPORATION

Defendant.

**AFFIDAVIT OF ROBERT D. COX, ESQUIRE**

I, Robert D. Cox, Esquire, on oath, hereby depose and state the following to be true to the best of my knowledge, information and belief:

1. I am an attorney admitted to practice law in the Commonwealth of Massachusetts and the United States District Court of Massachusetts. I am counsel for Consolidated Aluminum Corporation in this matter.

2. Attached hereto as Exhibit "A" are true and accurate copies of excerpts from the deposition transcript of Mr. Norman R. Lappies dated September 29, 2004.

Signed under the pains and penalties of perjury this 12th day of May, 2006.

/s/ Robert D. Cox, Jr.

**CERTIFICATE OF SERVICE**

I, Robert D. Cox, Jr., hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on May 12, 2006.

/s/ Robert D. Cox, Jr.

# EXHIBIT A

1 Q. How long did you do that?

2 A. A couple years.

3 Q. So this brings us into the mid  
4 '90s, approximately?

5 A. '95, '96, somewhere in there.

6 Q. And then what did you do?

7 A. Nothing.

8 Q. You retired?

9 A. I take it easy.

10 Q. Now I'm going to ask you a series  
11 of questions about your background, just to  
12 confirm certain things that I suspect, we  
13 suspect, are true, so bear with me. Throughout  
14 your career you've never had any type of  
15 training or education in chemistry?

16 A. In chemistry, no.

17 Q. Chemistry.

18 A. No.

19 Q. Never had any type of training,  
20 education, or experience in the manufacture of  
21 petroleum products?

22 A. No.

23 Q. Or lubricating oils?

24 A. No.

1 Q. No training, education or  
2 experience in dealing with the manufacture of  
3 mineral spirits or solvents?

4 A. No.

5 Q. You've never had any type of  
6 education or training with respect to  
7 identifying the nature or characteristics of  
8 chemicals or oils that are found in the  
9 environment?

10 A. Pertaining to what? I know what  
11 oils we used in the factory.

12 Q. Apart from that, no type of  
13 training or education or experience in  
14 identifying the nature or the characteristics  
15 of chemicals that you might find in the  
16 environment?

17 A. No. Not if you put it that way.

18 Q. You're not receiving any type of  
19 retirement benefit or payment from or through  
20 your former employers where you worked,  
21 employers at the facility in North Adams?

22 A. Oh, my God, no.

23 Q. You're not employed by Cariddi  
24 Sales?

1 Q. And where did it take place?

2 A. In Cariddi's office.

3 Q. And --

4 A. He called me and asked me to come  
5 over.

6 Q. And you did?

7 A. Yeah.

8 Q. And did he take you to the basement  
9 at that time?

10 A. Didn't have to. I know what's in  
11 the basement.

12 Q. Did he ask you to talk with his  
13 attorneys or his representatives at that time?

14 A. He called me later on, I believe,  
15 and asked me to talk to his attorney.

16 Q. Okay. So you met with him once at  
17 his office and then you told him that -- what  
18 was -- let me go back.

19 What did you tell him you  
20 would do for him when you met with him?

21 A. He just asked me if I'd make a  
22 statement saying I knew about the oil in the  
23 cellar and how it got there.

24 Q. Okay. And you said yeah?

1 A. Yeah. It was no --

2 Q. Did you give him a statement at  
3 that time?

4 A. No. I don't think so, no. I gave a  
5 statement when the lawyer was there.

6 Q. Okay. You said that he put you in  
7 touch with a lawyer representative later on.

8 A. The lawyer was at -- he called me  
9 and the lawyer was going to meet me at his  
10 office.

11 Q. Okay. And did that happen?

12 A. Yes.

13 Q. And do you know who the lawyer was?

14 A. No, I don't know. I can't remember  
15 his name. I really can't.

16 Q. Well, it was not Mr. Myhrum?

17 A. No.

18 Q. Was it someone from Mr. Myhrum's  
19 law firm?

20 A. Apparently.

21 MR. MYHRUM: Do you want me to  
22 suggest the name?

23 MR. COX: Is it Jones?

24 MR. MYHRUM: If I suggested

1 the name Joseph Dale to you, is that helpful?

2 THE WITNESS: No.

3 Q. (By MR. COX) It doesn't ring a  
4 bell?

5 A. Doesn't ring a bell to me.

6 Q. And did you sit down with Mr. -- or  
7 did you sit down with a representative from  
8 Mr. Cariddi?

9 A. Yes.

10 Q. And what did you talk about?

11 A. How the oil -- how we run the  
12 facility, or how the facility was run when I  
13 was hired, and how the oil got into the cellar.

14 Q. Okay.

15 A. And, you know, over twenty years'  
16 time, things happen. You know, everything was  
17 done with oil.

18 Q. Okay.

19 A. Oil and mineral spirits, that's all  
20 we used.

21 Q. Okay. And the representative of  
22 Mr. Cariddi took notes, just as I'm taking  
23 notes here?

24 A. Yes.



1 Q. Did he then provide you with a  
2 written statement?

3 A. Yes.

4 Q. Did he provide you first with a  
5 draft of that written statement?

6 A. No.

7 Q. Did you --

8 A. Not that I remember. I got a copy  
9 of this statement is what I got.

10 Q. Okay.

11 A. Not -- after I made it, a couple  
12 weeks later, I got a copy of it.

13 Q. Were your communications with  
14 Mr. Cariddi's representative by mail after your  
15 meeting?

16 A. No.

17 Q. They were in person?

18 A. The statement was brought to me by  
19 Mr. Cariddi.

20 Q. Okay. So I understand the  
21 scenario, Mr. Cariddi called you, you met with  
22 him once, said you could help out. The next  
23 meeting is with Mr. Cariddi's representative.  
24 You meet with him, you go away, Mr. Cariddi

1 calls you in again or you come in again to  
2 review a statement?

3 A. Yes.

4 Q. And sign it?

5 A. Yeah.

6 Q. Is that the scenario?

7 A. Yup.

8 Q. And at the time you signed the  
9 statement did you make any changes or  
10 modifications to the document?

11 A. Not that I can remember.

12 Q. Now, the subpoena that we issued to  
13 you, which we've marked as Exhibit 1, asked you  
14 to bring in certain documents relating to your  
15 employment at the facility.

16 A. What kind of documents?

17 Q. Well, hang on. I just want you to  
18 confirm that that's indeed what it says.

19 A. I read what it says but you're  
20 going back forty years. Why would I have  
21 documents from forty years ago?

22 Q. Do you have any documents with you  
23 responsive to the subpoena?

24 A. No, I don't. Not at all.